



Armando Bencomo <armando.bencomo@lacity.org>

Public Comments Not Uploaded **Please read - Council File 15-0129 - draft Mello Ordinance_Margaret Molloy Public Comments_September 23, 2021.pdf

1 message

Margaret Molloy <mmmolloy@earthlink.net>

Fri, Sep 24, 2021 at 5:13 PM

Reply-To: clerk.plumcommittee@lacity.org

To: Gilbert.Cedillo@lacity.org, councilmember.Krekorian@lacity.org, councilmember.blumenfield@lacity.org, contactCD4@lacity.org, paul.koretz@lacity.org, councilmember.martinez@lacity.org, councilmember.rodriquez@lacity.org, councilmember.harris-dawson@lacity.org, councilmember.price@lacity.org, councilmember.ridley-thomas@lacity.org, Councilmember Bonin <councilmember.bonin@lacity.org>, councilmember.Lee@lacity.org, councilmember.ofarrell@lacity.org, councilmember.kevindeleon@lacity.org, Councilmember Buscaino <councilmember.buscaino@lacity.org>

Cc: Armando Bencomo <clerk.plumcommittee@lacity.org>, Planning Mello <planning.mello@lacity.org>, Christine Saponara <christine.saponara@lacity.org>, Jeff Khau <Jeff.khau@lacity.org>, Save Venice <venicelives.savevenice@gmail.com>

Dear City Council & PLUM committee members,

As you consider the important issues in the proposed Mello Ordinance, which applies only to the coastal zone area of Los Angeles (within five miles of the coast) please consider how similar protections of rental housing could be implemented throughout the City of Los Angeles. This comment was made recently by commissioners at the West Los Angeles Area Planning Commission and the City Planning Commission.

Council File 15-0129 - TO WHOM IT MAY CONCERN_re draft Mello Ordinance_Margaret Molloy Public Comments_September 23, 2021.pdf

The Mello Act is a state Housing Element law. State law supersedes any local ordinance, and as stipulated in the Mello Act, local governments may exceed the protections of the state law, but must meet its criteria as a minimum: Low- **And Moderate-Income** Housing Within the Coastal Zone.

The coastal zone areas of Los Angeles include Venice, San Pedro and Pacific Palisades. Venice is home to the first intentional Black coastal community and only remaining intentional Black coastal community in California. Many of the multi-generational families still live here. Both Venice and San Pedro represent some of the only remaining cultural, ethnic, and socio-economic diversity in the Los Angeles coastal zone area. Environmental justice includes access for all people to the coast including housing access.

Please review the issues raised here ahead of your votes on a City of Los Angeles Mello Ordinance.

Appreciatively,

Margaret Molloy

ARTICLE 10.6. Housing Elements [65580 - 65589.11] (*Article 10.6 added by Stats. 1980, Ch. 1143.*)

ARTICLE 10.7. Low- and Moderate-Income Housing Within the Coastal Zone [65590 - 65590.1] (*Heading of Article 10.7 added by Stats. 1982, Ch. 43, Sec. 2.*)

65590.

(a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirements of this section shall apply within the coastal zone.....

2 attachments

(g) As used in this section:

(1) "Conversion" means a change of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, or similar form of ownership; or a change of a residential dwelling, including a mobilehome, or a mobilehome lot in a mobilehome park, or a residential hotel to a nonresidential use.

Screen Shot 2021-09-24 at 4.43.51 PM.png
242K



Council File 15-0129 -TO WHOM IT MAY CONCERN_re draft Mello Ordinance_Margaret Molloy Public
Comments_September 23, 2021.pdf
2753K

(g) As used in this section:

(1) **“Conversion” means a change of a residential dwelling,** including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, **to a condominium, cooperative, or similar form of ownership; or a change of a residential dwelling,** including a mobilehome, or a mobilehome lot in a mobilehome park, or a residential hotel **to a nonresidential use.**

TO WHOM IT MAY CONCERN

Date: September 23, 2021

Attention: Los Angeles City Council & PLUM committee.

Subject: Los Angeles Department of City Planning draft Mello Ordinance

MEMORANDUM

In 1982, the California Legislature passed the Mello Act¹ (Act) to protect residential housing, especially affordable housing, in the coastal zone.

In 1976, the Legislature approved the California Coastal Act² to manage development and protect sensitive coastal resources in the coastal zone³, an area of up to five miles inland of California's 1,100 of coastline. The California Coastal Commission⁴ (Commission) was created as the government agency to oversee implementation of the Coastal Act. The Mello Act took oversight of affordable housing in the coastal zone away from the commission and required local municipalities to implement this state law. The Commission has no authority to review Mello protests in coastal development permit planning appeals. No state agency enforces violations of the Mello Act. After an appeal at the local area planning commission, the only remedy an aggrieved party has is file a Writ of Mandamus. This is not a viable solution for low-income residents impacted by violations of the Mello Act.

FACTS

The Los Angeles Department of City Planning (DCP), Housing and Community Investment Department (HCID), and the Department of Building & Safety (LADBS) are responsible for the implementation of the Mello Act in the coastal zone areas of Los Angeles that include sections of Venice, San Pedro, and Pacific Palisades.

In 1998, Venice residents filed Venice Town Council v City of Los Angeles⁵ for violation of the Mello Act. The subject of the lawsuit was DCP's approval of the conversion of three ground-floor apartments in a 24-unit apartment building in a C-1 zone (Limited Commercial, L.A.M.C. SEC. 12.13) on Ocean Front Walk to commercial use without requiring "mandatory" one to one replacement housing for persons of low and moderate income in the coastal zone. That lawsuit resulted in a Settlement Agreement⁶ (Agreement) between the parties in 2000. In 2001, as a

-
1. CHAPTER 3. Local Planning [65100 - 65763] ARTICLE 10.7. Low- and Moderate-Income Housing Within the Coastal Zone [65590 - 65590.1]
 2. PRC Div. 20, California Coastal Act (2021) <https://www.coastal.ca.gov/coactact.pdf>.
 3. PRC Sec. 30150-30174: Ch. 2.5. Revisions To The Coastal Zone Boundary
 4. PRC Div. 20, California Coastal Commission
 5. Venice Town Council, Inc. v. City of Los Angeles (1996) 47 Cal.App.4th 1547
 6. Los Angeles City Council File: 98-0255 - Venice Town Council v. City of Los Angeles.

result of the Agreement, DCP approved the Interim Administrative Procedures for Complying with the Mello Act (IAP).⁷ The Settlement had many conditions including requiring DCP to have a Mello Coordinator, maintain a Mello database, produce annual reports, create an in-lieu fee program, and an Affordable Housing Trust Fund, and develop a permanent Mello Ordinance. On March 9, 2001, Los Angeles City Council approved Ordinance No. 173815⁸ (CF 98-0025): An Ordinance adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund. To date, DCP created a Mello Coordinator position but not a Mello Database. DCP only produced an annual report between 2000 and 2005, and never created an in-lieu fee program or a Coastal Zone Affordable Housing Trust Fund. Additionally, Section 8 of the IAP states that all Mello Determinations are appealable. In 2004, DCP created the Venice Sign Off (VSO) single-page administrative planning approval for use in the coastal zone that requires no public notice and is non-appealable. Between 2004 and 2016, DCP attached Mello determinations to VSOs rendering them non-appealable in violation of the IAP.

In 2008, DCP developed a draft Mello Act Ordinance & Procedures, Council File 08-1151,⁹ prepared with HR&A Advisors, Inc. The 174-page file includes a draft ordinance, findings, definitions, in-lieu fee assessment structure, and an Affordable Housing Trust Fund. There are revisions based on City inter-departmental exchanges, planning commission responses from public hearings, and suggestions by the Legal Aid Foundation of Los Angeles.

CPC-2005-8252-CA, Section 1(b): Definitions, Pg. 15 of 174.

Project means any action requiring a building permit approved by LADBS or a discretionary land use approval approved by a decision-maker that:

- (1) removes one or more existing Residential Units through a change to a non-residential use - Change of Use;
- (2) converts one or more existing Residential Units to a condominium, cooperative, or similar form of ownership - Condominium Conversion;
- (3) removes one or more existing Residential Units through the complete or partial demolition of a building, or by combining two or more units to make a larger unit- Demolition; or
- (4) creates one or more new Residential Units for rent or for sale, either through new construction or the adaptive reuse of existing, non-residential buildings - New Housing.

Residential Unit means a dwelling unit, efficiency dwelling unit, light housekeeping

7. Interim Administrative Procedures for Complying with the Mello Act <https://dev.venicenc.org/wp-content/uploads/2014/09/MelloAdminProcedures.pdf>.

8. Ordinance No. 173815 https://codelibrary.amlegal.com/codes/los_angeles/latest/laac/0-0-0-27136

9. Council File 08-1151 <https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=08-1151>

room, or joint living and work quarters, as defined in Section 12.03 of this Code; a mobile home, as defined in California Health and Safety Code Section 18008; a mobile home lot in a mobile home park, as defined in California Health and Safety Code Section 18214; or a guest room or efficiency unit in a residential hotel, as defined in California Health and Safety Code Section 50519 (b)(1).

CPC-2005-8252-CA – Pg. 18 of 174: Regulations.

2. Change of Use and Demolition Projects. *No Change of Use or Demolition Project that removes one or more existing Residential Units (including market-rate Residential Units) for purposes of a new non-residential use shall be approved unless the new non-residential use is a Coastal Dependent Use. Examples of Coastal Dependent Uses include but are not limited to fisheries and boating and harbor facilities. Affordable Existing Residential Units that are removed must be replaced pursuant to Section 12.20.2.2 E 3 of this Code. (italics added.)*

CPC-2005-8252-CA – Pg. 25-26 of 174:

H. Alternative Compliance Proposals. To apply for one or more deviations from the regulations set forth in Section 12.20.2.2 E of this Code the Project Applicant must submit an alternative compliance proposal by filing an appeal pursuant to Section 12.20.2.2 I of this Code. The appellate body shall have the authority to approve, approve with conditions, or deny an alternative compliance proposal. In reviewing alternative compliance proposals, the appellate body must comply with the following:

1. Change of Use and Demolition Projects. *The appellate body may approve a Change of Use or Demolition Project otherwise prohibited by Section 12.20.2.2 E 2 of this Code **only if** it first finds that a residential use is no longer Feasible at the Project site. If the appellate body approves the Change of Use or Demolition Project, then any Affordable Existing Residential Units that are removed **must be replaced** pursuant to Section 12.20.2.2 E 3 of this Code. (italics added.)*

HR&A's report included recommendations for the proposed Mello Act ordinance in-lieu fees, as recommended by and approved by the City Planning Commission on March 8, 2007, for FY 2008-09.

(b) In-Lieu Fee. If the appellate body finds that it is Infeasible for the Project Applicant to directly provide an Affordable Replacement Unit either on-site or off-site in the Coastal Zone or Extended Coastal Zone then it may permit payment of the following in-lieu fees:

<u>Coastal Zone Subarea where Affordable Existing Residential Unit was Removed or Converted</u>	<u>Fee Per Required Affordable Replacement Unit</u>
<u>Pacific Palisades</u>	<u>\$319,386</u>
<u>Venice-Playa Del Rey</u>	<u>\$296,959</u>
<u>San Pedro-Harbor</u>	<u>\$212,128</u>

On March 8, 2007, the suggested in-lieu fee per unit in Venice was \$296,959. Council File 08-1151 and the draft Mello Ordinance expired on September 19, 2011. Since the Agreement in 2000, many low-income units were lost in Venice, almost zero replacement affordable units or new inclusionary units were created, no in-lieu fees collected, and a Coastal Zone Affordable Housing Trust Fund was not created. The City's interpretation of the Mello Act and the IAP does not appear to comply with the court's interpretation of the Mello Act in Venice Town Council. State law prevails. *This must be the backdrop to the current draft Mello Ordinance.*

On February 3, 2015, Councilman Mike Bonin submitted Council File 15-0129¹⁰ requesting DCP to again prepare a permanent Mello Ordinance. A Mello Ordinance working group met regularly but that effort expired on February 2, 2018. More than a year later, on April 16, 2019, Mr. Bonin submitted Council File 15-0129-S1¹¹. That motion in 15-0129-S1 states in part:

In 2000, the City Council adopted "Interim Administrative Procedures for Complying with the Mello Act." The City Council was particularly concerned that every application for a project that triggered the Mello Act, whether discretionary or non-discretionary, receive the proper review. As such, the interim Administrative Procedures spelled out the review process, initial decision maker, appeal process, and appellate body for Mello Act compliance review. The Departments of Building and Safety, City Planning, and Housing and Community Investment were involved with the administration of the provisions of the Mello Act, in accordance with these procedures until a permanent ordinance was adopted. Nearly 20 years later, City Council has yet to enact a permanent ordinance.

Later in the motion Mr. Bonin states:

The permanent Mello ordinance for the City of Los Angeles should be tougher and more comprehensive than the interim guidelines, doing even more to protect, preserve and promote affordable housing in the Coastal Zone. A permanent ordinance should use the Interim Administrative Procedures as a starting point and a baseline, and go further, strengthening the current process, closing loopholes that may exist, and maximizing affordable housing preservation and creation in the Coastal Zone. A permanent ordinance should require all new housing developments that are subject to the Mello Act to provide affordable housing.

Finally, on February 25, 2021, a draft Mello Ordinance hearing took place at the City Planning Commission (CPC). DCP issued an updated draft Mello Ordinance¹² based on feedback from commissioners and the public in advance of a CPC hearing on May 13, 2021.

^{10.} Council File No. 15-0129

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=15-0129>

^{11.} Council File No. 15-0129-S1

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=15-0129-S1>

^{12.} Draft Mello Ordinance [https://planning.lacity.org/odocument/5acf5c08-1656-41d5-862f-8805bf03649c/Mello_Act_Ordinance_\(Revised\).pdf](https://planning.lacity.org/odocument/5acf5c08-1656-41d5-862f-8805bf03649c/Mello_Act_Ordinance_(Revised).pdf)

Mr. Bonin started his political career¹³ in 1996, when he joined the staff of Councilwoman Ruth Galanter, Council District 11, working as a legislative deputy, district director, and deputy chief of staff over seven years. CD 11 represent areas of the westside including the coastal zone area of Venice. From 2003 to 2004 Mr. Bonin worked in the Office of Congresswoman Jane Harman, representing California's 36th congressional district, as deputy chief of staff and district director. In 2005, Mr. Bonin managed his predecessor, Bill Rosendahl's, successful city council campaign for CD 11. Mr. Rosendahl then appointed Mr. Bonin as his chief of staff, a position he held until Councilman Rosendahl's early retirement in June 2013. Mr. Bonin was elected to represent CD 11 on July 1, 2013 and has held that position since. As such, since the beginning of his career, and continuously since 2004, Mr. Bonin has had some responsibility for oversight of the Mello Act/ Settlement Agreement/ and IAP in the coastal zone area of Venice in this district.

MAIN ISSUES

1. What was the intent of the Legislature in passing the Mello Act in 1982?
2. Does the state Mello Act allow conversion or demolition of 100% residential properties for a mixed-use development?
3. Does the City's use of Los Angeles Municipal Code (LAMC)¹⁴ definitions and local zoning codes in implementing the IAP comply with the IAP, Mello Act, Housing Element, and the intent of the Legislator?
4. In cases where there is a conflict between: (a) state law and local ordinances or municipal laws, and (b) the definitions within those laws, what law dominates?

ANSWERS

1. The Mello Act is a housing element law. The Mello Act is Public Resources Code (PRC), Title 7, Planning and Land Use, Division 1, Chapter 3, Article 10.7, Low- and Moderate-Income Housing Within the Coastal Zone [65590 - 65590.1]. The first line of the Mello Act incorporates Article 10.6, the Housing Element. Therefore, it is the intent of the Legislature that the Mello Act is a housing element law.
2. State law supersedes local municipal ordinances, municipal code and zoning. The Mello Act has an explicit prohibition on demolition or conversion of 100% residential properties in the coastal zone to other uses with narrow exceptions for a "coastal dependent" use or where a continued residential use is infeasible.
3. The IAP is an interim "guideline" adopted by DCP in 2001. DCP has violated the Mello Act, Agreement and the IAP in several ways, described below. DCP has allowed conversions of existing residential units to commercial uses and demolition of 100% residential units for construction of mixed-use development. DCP's draft Mello Ordinance proposes to allow demolition and conversion of existing 100% residential to mixed-use and 100% commercial use. This is not compliant with the Mello Act, Housing Element, Housing Accountability Act of 2018, Housing Crisis Act of 2019, or the intent of the Legislator. State law supersedes municipal ordinances and codes, and zoning.
4. The Mello Act states that where there is a conflict between the Mello Act and any local regulations, the regulation that results in the greatest number of housing units will prevail.

¹³. Mike Bonin political career https://en.wikipedia.org/wiki/Mike_Bonin

¹⁴. L.A.M.C. https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-107363

QUICK FACTS ABOUT VENICE

Venice - 3-Square Mile Area. Oakwood - 1-Square Mile Area.

Oakwood – First Intentional Black Coastal Enclave in California, founded in 1900, and still exists today.¹⁵

California has 1,100 miles of coastline. Venice has 1 mile of coastline.

Los Angeles is the most culturally diverse major city in the United States. Venice is the most diverse residential coastal community in California.

Venice is #1 public visitor destination in the California.

The historic Black community were limited by restrictive covenants to live in the ten-square block-area known today as Oakwood. Black families helped to build and maintain Abbot Kinney's Venice of America and Black pioneer Arthur Reese and his crew envisioned and created galas, festivities, events, and attractions that delighted visitors to Venice. The Black community were denied access to Venice's amenities including the beach and ocean.

Oakwood is an area of historic redlining.

First Baptist Church of Venice was founded in 1910 at 5th and San Juan Avenue. In 1927, architect Paul R. Williams designed their second home at 688 Westminister Avenue. As church membership grew, FBCV moved across the street to their third home at 685 Westminister Avenue. Seven hundred people attended the 1968 dedication ceremony.¹⁶ Oakwood was subject to City of Los Angeles discriminatory programs targeting the Black community including PACE, REAP, Broken Windows and Code Enforcement. Between 1990 and 2020, Oakwood had two Gang Injunctions.¹⁴

The 1960 Census lists the Black population in Oakwood as 3,191, in 1970 as 2,290, in 1980 as 1,064, in 1990 as 2,022, and by 2010 the Black population in Oakwood was 821.

In 2015, Venice, including Oakwood, had the most expensive real estate in Los Angeles, highest concentration of short-term rentals, and most liquor licenses per census tract of any area of Los Angeles, all while Venice had two active gang injunctions.¹⁷

For the 2018-2019 school year, LAUSD statistics for Venice (determined by zip code) show that 86% of Westminister Elementary School students, 74%% of Mark Twain Middle School students, and 71% of Venice High School students qualified for Title 1 subsidies for low-income families.

In March 2019, the California Coastal Commission passed an Environmental Justice Policy aimed at restoring equity in access to the coast including housing access.

In 2020, Los Angeles gang injunctions were found to be unconstitutional and vacated.¹⁸

15. <https://savevenice.ca>

16. <https://savevenice.ca/black-history/first-baptist-church-of-venice-75th-anniversary/>

17. <http://lapd->

assets.lapdonline.org/assets/pdf/COLUMBUS%20STREET%20GI%20gang_injun_citywide_85x11.pdf

18. Youth Justice Coal. v. City of L.A. 264 F. Supp. 3d 1057 (C.D. Cal. 2017)

Issue 1

Is the Mello Act a housing element law?

Rule

The Mello Act is PRC Article 10.7. Low- and Moderate-Income Housing Within the Coastal Zone [65590 - 65590.1] The Mello Act incorporates Article 10.6. Housing Elements [65580 - 65589.11]. Both are state Housing Element laws.

Analysis

PRC Article 2. Declaration of State Policy and Legislative Intent [65030 - 65036.1]:¹⁹

‘The Legislature finds and declares that California’s land is an exhaustible resource, not just a commodity, and is essential to the economy, environment and general well-being of the people of California. It is the policy of the state and the intent of the Legislature to protect California’s land resource, to insure its preservation and use in ways which are economically and socially desirable in an attempt to improve the quality of life in California.’

PRC ARTICLE 10.6. Housing Elements [65580 - 65589.11] includes:

The Legislature finds and declares as follows:

The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

Section 65582:

(f) “Housing element” or “element” means the housing element of the community’s general plan, as required pursuant to this article and subdivision (c) of Section 65302.

Article 10.7: Low- and Moderate-Income Housing Within the Coastal Zone, the Mello Act, incorporates Article 10.6 in its opening sentence, making clear the Legislator’s intent that this is a housing Element law:

(a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirements of this section shall apply within the coastal zone as defined

¹⁹ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65030.

and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

Article 10.7, 65590:

- (a) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not “coastal dependent”, as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location.

Additionally, PRC Division 13. Environmental Quality, Chapter 1. 65030(g), Policy:²⁰

It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.

Los Angeles, like many parts of the state, is in a housing crisis and an unhoused crisis. In response to this, the Legislator passed Senate Bill No. 167 in 2018, the Housing Accountability Act²¹ and the Housing Crisis Act of 2019²².

In 2020, and continuing today, Covid-19, a global pandemic caused an unforeseeable medical and financial crisis. Three million people have died worldwide to date. This catastrophe exacerbates the existing housing and unhoused crisis in California. The federal and state government have attempted to help people through the pandemic by providing emergency unemployment benefits, eviction moratoriums, and rent and mortgage forgiveness programs for qualifying households. But many people who lost employment due to the pandemic may be unable to repay their landlords when mandatory eviction moratoriums lift. Housing and tenant rights advocates in Los Angeles and throughout California fear a post-moratorium “tsunami” of evictions. On May 5, 2021, a federal judge overturned the Center for Disease Control’s Covid-19 eviction moratorium. It is in this light of these issues that the City of Los Angeles must contemplate an equitable Mello Ordinance.

Conclusion

The City of Los Angeles must comply with the Legislature’s intent in the state’s Housing Element laws including Article 10.6, and Article 10.7, the Mello Act, as a minimum baseline and exceed those requirements where possible in order to strengthen the supply of decent permanent housing available to people of all income levels in the coastal zone. In 2021, the City of Los Angeles is in an unprecedented housing crisis and unhoused crisis. The Mello Act has an explicit

²⁰. PRC Div. 13. Environmental Quality [21000 - 21189.70.10] (*Division 13 added by Stats. 1970, Ch. 1433.*)

²¹. Senate Bill No. 167 SB 167, Housing Accountability Act.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB167

²². Senate Bill No. 330 SB 330, Skinner. Housing Crisis Act of 2019.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330

prohibition on demolition or conversion of 100% residential properties for other uses, with few exceptions. That is a plain reading of the language and intent of the Act. The City may go beyond the Act's provisions in order to increase the supply of residential housing, especially affordable housing, in the coastal zone, but the City must comply with Article 10.6 and Article 10.7 as a minimum baseline. State law prevails over any local ordinance, municipal code, or zoning.

ISSUE 2

Does the state Mello Act allow conversion or demolition of 100% residential properties for a mixed-use development?

Rule

The Mello Act incorporates the state Housing Elements. Article 10.7, 65590 (a):

The *conversion or demolition* of any **residential structure** for purposes of a *nonresidential use which* is not “coastal dependent”, as defined in Section 30101 of the Public Resources Code, *shall not be authorized* unless the local government has first determined that a *residential use is no longer feasible* in that location. (italics added)

Analysis

The language of the Mello Act is not ambiguous. The Act has an explicit prohibition on conversion of 100% residential properties in the coastal zone to other uses with few exceptions. Since there is no ambiguity in the language, the Plain Meaning Rule applies. 10.7 states that local municipalities *must comply* with the minimum protections of the Act but may choose to exceed those standards. State law prevails where there is a conflict with local municipal ordinances, codes, or zoning.

IAP, Section 1.2.3 reiterates this:

“In the case of conflict between the Interim Administrative Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement that results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply.”

But the City has not always done so.

In Venice Town Council, the property owner claimed that continued residential use of three ground-floor apartments on Ocean Front Walk was infeasible. The City granted approval without requiring one-for-one replacement units in the coastal zone. Plaintiffs sued for breach of the mandatory one-for-one replacement requirement. The Court clarified that 10.6 states that,

23. In *Venice Town Council, Inc. v. City of Los Angeles*, 47 Cal.App.4th 1547, 1552-53 (Cal. Ct. App. 1996)

“the *conversion or demolition of any residential structure for purposes of a nonresidential use which is not “coastal dependent”, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location.*”

Under Facts and Proceedings, the court states:

[T]he types of conversions or demolitions *which may be reviewed for feasibility* of replacement with affordable housing are (1) single-family dwellings, duplexes, or 10 or fewer units of multiple residential structures (§ 65590, subd. (b)(1)); (2) residential units *replaced by coastal dependent or coastal related uses* (§ 65590, subd. (b)(2)); (3) converted or demolished residential units in a jurisdiction with less than 50 acres of available privately owned vacant land in the coastal zone (§ 65590, subd. (b)(3)); (4) payment of a fee in lieu of affordable replacement housing, provided the local government has a program to ensure the fees will be used to build replacement units in, or within three miles of, the coastal zone (§ 65590, subd. (b)(4)); and (5) residential units which have been declared a public nuisance (§ 65590, subd. (b)(4).)

"Coastal dependent" is defined by Public Resources Code section 30101 as "any development or use which requires a site on, or adjacent to, the sea *to be able to function at all.*" (Italics added.)

Even if one of these special circumstances applies, however, and the local government finds the further fact that it *is feasible* for the developer to replace some or all of the converted or demolished affordable housing units, "replacement dwelling units *shall* be required." (§ 65590, subd. (b), (italics added.)

Again, in Venice Town Council, the property owner claimed that continued residential use of three ground-floor apartments on Ocean Front Walk was infeasible.

Under Facts and Proceedings, the court continues:

As noted, section 65590, subdivision (c) mandates the City to require replacement housing any time existing residential units occupied by low- or moderate-income persons are replaced by noncoastal dependent commercial uses. Contrary to the City's argument, this subdivision permits the City no discretion to determine whether replacement units are feasible in this circumstance. If a noncoastal dependent commercial use replaces residential units occupied by low- or moderate-income persons or families, replacement of those affordable housing units are required, either within the coastal zone or within three miles of the coastal zone. Thus, contrary to the City's apparent policies, argument in the trial court and in this court, when dwelling units occupied by low- or moderate-income persons or families are replaced by noncoastal dependent commercial uses, replacement of these units or payment of an in-lieu fee is mandatory and is not dependent on a finding replacement is feasible.⁸

⁸ The only types of conversions or demolitions which may be reviewed for feasibility of replacement with affordable housing or payment of an in-lieu fee under this subsection would be the conversion or demolition of single-family residences or duplexes (§ 65590,

subd. (b)(1)), units declared to be public nuisances (§ 65590, subd. (b)(4)), units in a jurisdiction with less than 50 acres of vacant, privately owned and available land (§ 65590, subd. (b)(3)) or replacement with a coastal-related use (§ 65590, subd. (b)(2).)

The Court made clear that demolition or conversion of residential properties to nonresidential uses is prohibited unless the demolition or conversion is “coastal dependent”, or a residential use is no longer feasible at the location. Those are the only types of conversions or demolitions which may be reviewed for feasibility of replacement with affordable housing or payment of an in-lieu fee. If continued residential use is no longer feasible, then Section 65590, subdivision (c) mandates the City to require replacement housing any time existing residential units occupied by low- or moderate-income persons are replaced by noncoastal dependent “commercial uses”, and replacement of these units or payment of an in-lieu fee is mandatory and not subject to a feasibility review.

Contrary to this, since the 2000 Settlement Agreement and the creation of the IAP, DCP has used a series of “unofficial” Mello Act Advisory Notice & Screening Checklist for Coastal Zone Projects (MSC). DCP Senior Planner Jonathan Hershey led the team developing the current draft Mello Ordinance from 2015 until early 2020. Mr. Hershey wrote by email: *“No Form Number was obtained for the Mello Act Advisory Notice & Screening Checklist for Coastal Zone Projects utilized in 2003.”* At some point later, DCP planner and then-Mello Coordinator Greg Shoop changed the Mello Screening Checklist and issued a new version of the form with his name on it. In response to an inquiry about Mr. Shoop’s version of the MSC, Mr. Hershey replied: *“I have no knowledge of this.”* In 2017, current DCP planner and Mello Coordinator Juliet Oh’ issued a version of the MSC form with her name on it. Mr. Hershey wrote: *“I have no knowledge of this.”*

DCP’s 2003 Mello Act Advisory Notice & Screening Checklist for Coastal Zone Projects stated that applicants “may qualify” for exemptions:

Step Three: The Mello Act Coordinator is *authorized to issue* Replacement / Inclusionary Housing Requirement *Exemptions*. If the project, or part of the project, may qualify for one or more of the following exemptions, please forward to the Mello Act Coordinator the appropriate requested documentation. *These exemptions are:*

1. Owner-occupied single-family residence that will be demolished and replaced with a new single-family dwelling for occupancy by the same owner. The owner/ applicant must complete and submit a Single-Family-Dwelling Exemption Affidavit.
2. Existing Residential Structures must have been declared a public nuisance by the Department of Building & Safety. The owner/ applicant must provide a copy of Notice to Comply or Notice to Demolish.
3. Small new housing units consisting of fewer than ten residential units. A new housing development of nine or fewer residential units is considered a small new housing development.

Greg Shoop’s Mello Act Advisory Notice & Screening Checklist for Coastal Zone Projects stated that the project “may qualify” for “automatic exemptions”:

Step Three: Does the project, or part of the project, qualify for one or more *automatic exemptions*? The Mello Act and the Mello Act Settlement Agreement that became effective on January 3, 2001 *provides for three exemptions* from portions of the Mello Act provisions. *These exemptions are:*

1. Owner-occupied single-family residence that will be demolished and replaced with a new single-family dwelling for occupancy by the same owner. The owner/ applicant must complete and submit a Single-Family-Dwelling Exemption Affidavit.
2. Existing Residential Structures must have been declared a public nuisance by the Department of Building & Safety. The owner/ applicant must provide a copy of Notice to Comply or Notice to Demolish.
3. Small new housing units consisting of fewer than ten residential units. A new housing development of nine or fewer residential units is considered a small new housing development.

Please note that these exemptions DO NOT exempt projects from Mello Act Compliance Review: they only limit the scope of review necessary.

The language on Mr. Shoop's form is not consistent with the Court's finding in Venice Town Council.

Additionally, DCP has to make required findings for Mello compliance in planning approvals / Letter of Determination for coastal zone projects in Venice. DCP applies a "categorical exemption" where the Mello Act/ Venice Town Council requires a feasibility review. DCP has allowed conversion or demolition of a **residential structure** for purposes of a nonresidential use which is not "coastal dependent" and without a determination that a residential use is no longer feasible in the location. The Mello Act says that those demolitions or conversion are prohibited with very few exceptions, and when granted, mandatory one-to-one replacement units are required. DCP has not complied with this.

Examples of projects that should not have been approved include:

ZA- 2014-3186-CDP-SPP-MEL²⁴ at 2100-2106 Narcissus Court: "Zoning Administrator approving a Coastal Development Permit pursuant to Los Angeles Municipal Code (LAMC) Section 12.20.2 authorizing the demolition of an existing single-family dwelling and the construction of a new, 29-foot 6-inch tall, two-story, 3,491 square-foot industrial building."

ZA-2014-3182-CDP-SSP-MEL²⁵ at 519-521 W Bocaccio Ave: "decision of the Zoning Administrator approving a Coastal Development Permit pursuant to Los Angeles Municipal Code (LAMC) Section 12.20.2 authorizing the demolition of an existing duplex and the

²⁴. ZA-2014-3186-CDP-SPP-MEL- 1A <https://planning.lacity.org/StaffRpt/InitialRpts/ZA-2014-3186.pdf>

²⁵. ZA-2014-3182-CDP-SPP-MEL- 1A <https://planning.lacity.org/StaffRpt/InitialRpts/ZA-2014-3182.pdf>

construction, use and maintenance of a new 3,850 square foot industrial building located within the single permit jurisdiction of the California Coastal Zone

In ZA 2012-2841(CDP)(CU) (ZV)(MEL)²⁶ at 2 East Breeze Avenue, Venice, DCP approved:

“a Coastal Development Permit and Mello Act Compliance review to allow a change of use from a 31-unit apartment building to a 31.-guestroom transient occupancy residential structure on a property located in the C1-I Zone and within the Dual Permit Jurisdiction area of the Coastal Zone.”

These planning approvals are not consistent with the Mello Act, the intent of the Legislature, the Settlement Agreement, IAP, or the Court’s finding in Venice Town Council.

Land use attorney Mike Newhouse served as president of the Venice Neighborhood Council (VNC) from May 2014 until June 2016, On October 4, 2016, Mayor Eric Garcetti appointed Mr. Newhouse to the West Los Angeles Area Planning Commission (WLAPC) where he presently serves as commission president. On October 16, 2015, Mr. Newhouse submitted the official VNC Council Community Impact Statement to Council File 14-1635-S2 as president.

Venice Neighborhood Council Community Impact Statement on Short-Term- Rentals:²⁵

4. **“Mello Act provisions must be strictly adhered to** Special Coastal Zone provisions in any new short-term rental regulations should implement the protections of the Mello Act. The three Coastal Zone neighborhoods within the City (Venice, San Pedro, and Pacific Palisades) warrant special attention, and possibly an exemption from this ordinance in favor of stricter rules. The Mello Act, a state law, expressly prohibits the conversion of residential housing to non-residential uses in most circumstances. An RSO building owner currently operating an illegal hotel (which we have many of in Venice) cannot be granted the required zoning changes, permits or certificates of occupancy to convert their operation to a legal hotel, because the Department of City Planning would be compelled by the Mello Act to deny these requests. Currently, many operators of STRs are operating without the required zoning, certificates of occupancy, or permits to operate a commercial hotel. Therefore, in the Coastal Zone especially (and throughout the City, as a matter of good public policy), the Council should first address how to bring all residential properties into compliance with applicable laws and rules, including the Mello Act. Secondly, the City should address if and how a property owner could operate an STR legally. If no measures can be found, we have no choice but to ban STR's in the Coastal Zone, in

²⁶. ZA 2012-2841(CDP)(CU) (ZV)(MEL) 2 Breeze.

<https://planning.lacity.org/pdiscaseinfo/document/MTM3NTE30/de98c26c-073f-43dc-b739-b418741a3276/pdd>

²⁷. Council File 14-1635-S2. Venice Neighborhood Council CIS Statement on Short-Term- Rentals

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=14-1635-S2>

accordance with State Law and in the interest of protecting our neighborhoods and residential housing stock.”

DCP states that the purpose of the draft ordinance is: “An ordinance to add a code section to the Los Angeles Municipal Code (LAMC) to implement California Government Code Section 65590-65590.1, also known as the Mello Act.” As such, the proposal must be consistent with the intent of the Legislature and the Housing Element.

Draft Ordinance: 2. Conversion or Demolition of an Affordable Unit.

“Conversion or Demolition of an Affordable Unit is prohibited, *unless replaced with an Affordable Replacement Unit*. Affordable Units are to be preserved or replaced at the same size bedroom type, and made affordable to at least the same income levels as those existing households at the time the units were occupied. In addition, the following provisions apply to conversions and Demolitions”:

“Conversion or Demolition of an Affordable Unit is *prohibited, unless replaced with an Affordable Replacement Unit*” **is not the same as** “the *conversion or demolition of any residential structure* for purposes of a *nonresidential use* which is not “coastal dependent” **shall not be authorized** unless the local government has first determined that a *residential use is no longer feasible* in that location (Article 10.7, 65590(a)).” The plain language of the Mello Act states that conversion is prohibited with very few exceptions. The City cannot exceed its authority in interpreting a state law. The Court’s findings in Venice Town Council state this.

Draft Ordinance: 3. Definitions:

Conversion. A change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units, either affordable, (covenanted or determined affordable by a Mello Determination) or market rate.

Project. Within the Coastal Zone, any action for which a permit, authorization, or determination is required to be issued, resulting in the Conversion, Demolition, or reduction of the number of existing Residential Units; and/or the construction of new Residential Units.

Residential Unit. A dwelling unit, including an efficiency dwelling unit, accessory dwelling unit, junior accessory dwelling unit, light housekeeping unit or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code; a mobile home, as defined in Section 18008 of the California Health and Safety Code; a mobile home lot in a mobile home park as defined in Section 18214 of the California Health and Safety Code; a residential hotel (inclusive of individual rooms within a residential hotel) as defined in paragraph (1) or subdivision (b) of Section 50519 of the California Health and Safety Code.

Draft Ordinance: 5. General Provisions.

a. Conversion or Demolition. Projects resulting in the Conversion or Demolition of existing Residential Units, shall comply with the following provisions:

1. Conversion or Demolition of an existing Residential Unit to a non-Residential unit. Conversion or Demolition of any existing Residential Unit, for purposes of a non-residential unit that is not Coastal-Dependent, is prohibited, unless a residential unit is deemed no longer feasible through the Appeal Process (see Section 8 and 9 for applicable Feasibility Study Provisions and Feasibility Study Methodology requirements). Conversion of a Residential Unit to a guest room in an Apartment Hotel or Hotel will constitute a Conversion to a non-residential unit and is not permitted.²⁸ The Department of City Planning shall determine feasibility based on the review of Substantial Evidence.

Draft Ordinance: 5C (5). Mixed Use Development.

“A proposed mixed-use development may not result in a net reduction in the total number of existing Residential Units unless a residential use is no longer feasible. A mix of uses is permitted, so long as the structure provides all required Replacement Affordable units on site and Inclusionary Units.”

Here, the draft ordinance proposes approval of mixed-use development. That is not consistent with Article 10.7, 65590(a), *supra*, and the explicit prohibition on conversion. Mixed-use development is a change of use from 100% residential to a commercial use, that often has a residential component. The plain language of the Mello Act prohibits conversion. The City cannot exceed its authority.

DCP recently approved multiple projects in the Venice coastal zone and has more applications in the pipeline that convert 100% residential to mixed-use in violation of the Mello Act and existing IAP. Several of these planning approvals show that the intent of the Legislature to protect housing is not being protected and the City is exceeding its authority.

Example Case - ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A – Venice Place
In 2020, DCP approved and WLAPC upheld ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A²⁹ at 1021-1051 Abbot Kinney, Venice Place for:

the “construction, use, and maintenance of a 70,310 square foot, mixed-use development (including existing and new floor area). The mixed-use development is comprised of two existing restaurants and a new 3,810 square-foot hotel restaurant having 2,514 square-feet of Service Floor area, four dwelling units, 78 guest rooms within a hotel, 2,935 square

^{28.} 2012-2841(CDP)(CU) (ZV)(MEL), DCP approved the conversion of an entire 32-unit RSO apartment building to a commercial use at 2 Breeze Avenue in violation of the Mello Act’s prohibition on conversion. Discussed below.

^{29.} ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A
<https://planning.lacity.org/pdiscaseinfo/search/encoded/MjM2ODg00>

feet if ground floor retail space including a market with 170 square-feet of Service Floor area, a 1,735 square-feet spa, and 2,027 square-feet of office use.

Three historic Rent Stabilized units are to be demolished as well as other structures. Other residential units within the proposed area were already demolished, piecemeal, including a single-family residence at 1033 Abbot Kinney, and are not calculated in required Mello findings.

DCP approved Venice Place using L.A.M.C. 13.09b to define mixed-use:

Mixed Use Project means a Project which combines one or more Commercial Uses and **multiple dwelling units** in a single building or in a Unified Development and which provides the following:

- (1) a separate, Ground Floor entrance to the residential component, or a lobby that serves both the residential and Commercial Uses components; and
- (2) a pedestrian entrance to the Commercial Uses component that is directly accessible from a public street, and that is open during the normal business hours posted by the business.

A minimum of 35 percent of the Ground Floor Building Frontage abutting a public commercially zoned street, excluding driveways or pedestrian entrances, must be designed to accommodate Commercial Uses to a minimum depth of 25 feet.

DCP approved a 1.5 Floor Area Ratio for Venice Place for a primarily “residential” project. The four “dwelling units” are under 2,500 square feet in a 70,310 square foot development. Three historical Rent Stabilized properties will be demolished. The Applicant claims to provide four “apartments” with a mix of commercial uses including a 78-room hotel. **DCP and HCID approved this interpretation of mixed-use** and the required Mello findings.

But the four “apartments” are under the Venice Place’s ABC Type 41 license and have in-room mini bars. These are not “residential units” or “replacement dwelling units” that comply with the intent of the Legislature in the Housing Element and Mello Act. The plain language of the Mello Act prohibits conversion. The City cannot exceed its authority.

ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A was assigned to a planner on September 19, 2018. The Applicant submitted a HCID Mello Determination from July 6, 2010 submitted by a prior owner for a different planning application to justify demolition of the three RSO dwellings. Los Angeles County Assessor records show that the Applicant bought 1047-1051 Abbot Kinney on August 30, 2011. On February 13, 2012, DCP approved DIR-2012-0367-VSO-MEL with the project description: “Legalize existing conversion of three single-family dwellings into a Day Care.” Contrary to IAP, Section 8, that states that Mello determinations are appealable, DCP attached the Mello Determination to the non-appealable VSO, as it did for more than twelve years. A comment on the VSO states: “Based on the attached letter it is not feasible to maintain the rental units as required by the Mello Act.” A coastal development permit is required for a change of use and/or a change of intensity of use in the coastal zone. The Applicant did not apply for a coastal development permit or a legal Certificate of Occupancy. The property is three legal RSO units and the Applicant continues to pay property taxes for a residential use. But for the purposes of a mixed-use development, these dwelling units will be

replaced by “apartments” with in-room liquor cabinets attached to a hotel. This violates the intent of the Mello Act.

The Applicant’s PowerPoint Presentation for ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A: Apartments, 3rd floor, Room service, in-room mini-bar.

Venice Place Master CUB Programming Matrix				
Usage Type	Floor	Service Proposed ^a	Hours ^b	Entertainment Type ^c
Commercial (Westminster)	1st Floor	Service & Consumption, Off Site Sale	9am-1am	Ambient Music
Lobby/Library/Courtyard	1st Floor	Consumption	9am-1am	Ambient Music, Live Entertainment
Hotel Restaurant and Bar	1st Floor	Service & Consumption	9am-1am	Ambient Music, Live Entertainment
Hotel Restaurant	2nd Floor	Service & Consumption	9am-1am	Ambient Music, Live Entertainment
Outdoor Deck	2nd Floor	Service & Consumption	9am-1am	Ambient Music
Hotel and Ancillary Uses ^d	Subgrade, 1st, 2nd, 3rd Floor	Room Service & Consumption	9am-1am	Ambient Music, Live Entertainment
Guest Rooms and Common Areas	2nd and 3rd floor	Room service, in-room mini-bar, consumption	9am-1am	N/A
Apartments	3rd Floor	Room service, in-room mini-bar, consumption	9am-1am	N/A
Pool, Pool Deck and Bar	3rd Floor	Service & Consumption	9am-1am Thurs-Sat 9am-12am Sun-Wed	Ambient Music, Live Entertainment
Roof Deck	Roof	Room Service & Consumption	9am-12am Thurs-Sat 9am-11 pm Sun-Wed	Ambient Music
^a Consumption implies food and beverage				
^b Hours: 9am on weekdays if school is in session, 7am all other days.				
^c Unamplified live entertainment during NON-school hours only. All music must be inaudible to adjacent properties and will be decibel limited by conditions of approval				
^d Ancillary uses located at Subgrade, 1st, 2nd and 3rd Floor. Hotel guests rooms are located on the 2nd and 3rd Floors only				

Operational Conditions

HOURS REVISED TO 9 am

- No public dancing or dance floor
- Special events require LAPD permit and signoff
- No amplified music or amplified live entertainment in outdoor areas
- Ambient music permitted indoors (until 12 am) and outdoors (until 11pm)
- Pool and roof deck areas limited to registered hotel guests only
- Non-smoking property

The Mello Act’s prohibits conversions with exceptions for a coastal dependent use or where residential housing is infeasible. Residential housing cannot be said to be infeasible in Venice, San Pedro, or Pacific Palisades. That cannot be construed to mean that the Mello Act allows conversion as long as the number of units remains the same. The conversion of 100% residential development to mixed-use is a change of use to a commercial use, changing the character of the community, intensifying the property use, and traffic, and undermining the housing element during a time of a housing crisis as well as an unhoused crisis.

In *Venice Town Council*, the court said:

[W]e conclude the City's interpretation of its responsibilities under the Mello act is erroneous. The plain language of the statute imposes a mandatory duty on the City in certain circumstances to require replacement housing for low- or moderate-income persons or families where units occupied by qualifying persons are converted or destroyed. We further conclude the City has no discretion to allow a developer to escape

the requirement of providing affordable replacement units whenever the City permits a noncoastal dependent commercial structure to replace existing affordable residential units. Because the trial court based its ruling on the City's erroneous interpretation of its duties under the Mello act, we reverse the judgment of dismissal with directions to overrule the demurrer.

The controversy in Venice Town Council was conversion of three ground floor apartments in a 100% residential 24-unit RSO building to commercial use, based on a claim of infeasibility of continued residential use of those units by the property owner, and without mandatory one-for-one replacement units on site or in the coastal zone. Because of failures of implementation of the Mello Act in Venice, we have lost housing diversity and consequently cultural and economic diversity in the coastal zone of Los Angeles.

Now, the City must construct a narrow interpretation that stops the loss. Allowing mixed-use does not support the preservation of existing housing and creation of new housing. It is prohibited by the Mello Act and it would open a flood gate for developers who know that the City lacks enforcement capability.

Example Case – 2012-2841(CDP)(CU) (ZV)(MEL) – Venice Suites & BC 624350

In 2012-2841(CDP)(CU) (ZV)(MEL), DCP approved the conversion of an entire 32-unit RSO apartment building to a commercial use at 2 Breeze Avenue in violation of the Mello Act's explicit prohibition on conversion of existing residential units to non-residential uses.

“a Coastal Development Permit and Mello Act Compliance review to allow a change of use from a 31-unit apartment building to a 31.-guestroomtransient occupancy residential structure on a property located in the C1-I Zone and within the Dual Permit Jurisdiction area of the Coastal Zone,”

Owner Carl Lambert's California Regional Multiple Listing Services Inc. sales sheet for 2 Breeze (below) states: “Can be purchased with three other furnished rental buildings in Venice Beach (96 units total). Demand for extended stay is growing for economic business and pleasure travelers.” “Listing Broker is the Owner” refers to Mr. Lambert's business Lambert Investments, Inc., BRE: 00860625.

In 2017, the Lambert Investments, Inc. bio for Chief Financial Officer Robert Browning (below) stated: “Robert is responsible for planning, implementing, managing and controlling all financial related activities of five extended stay properties on the famous Venice beach boardwalk. He is also responsible for the overall management of 202 family dwelling units in Venice beach and Santa Monica area.”

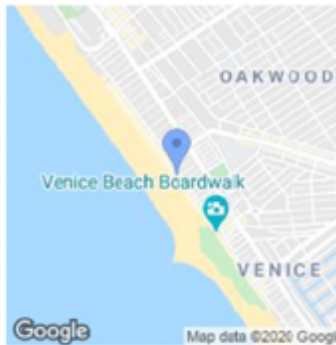
Many of these properties are in the dual permit area of the coastal zone, subject to the Mello Act.

2 BREEZE Ave, Venice 90291

STATUS: Expired

LIST PRICE: \$14,950,000

On the Venice Beach Boardwalk



OF UNITS TOTAL: 31
 SQFT(src): 15,408
 PRICE PER SQFT: \$970.28
 LOT(src): 4,399/0.101
 LEVELS: Three Or More
 YEAR BLT(src): 1930
 DOM / CDOM: 49/49
 SLC: Standard
 TOTAL OP. EXP: \$459,000.00
 NET OP. INCOME: \$641,000
 PARCEL #: 4226003001
 LISTING ID: 10470853

Use PEAD in Glide During COVID-19

DESCRIPTION

Prime Venice Beach LOCATION, LOCATION! World Famous Venice Beach Boardwalk! Totally renovated in 2008, copper plumbing, new electrical, Ceasarstone countertops & much more. Rooftop deck with ocean views & most units have ocean views. Ocean view units will bring higher rents. Currently operating 29 units as monthly/weekly rentals most can be vacant at close of escrow. *Can be purchased with 3 other furnished rental buildings in Venice Beach (96 Total Units). Demand for Extended Stay is growing for economizing business & pleasure travelers. Venice Beach continues to be the second most visited destination in Southern California. Listing Broker is the Owner

EXCLUSIONS:

INCLUSIONS:

AREA: C11 - Venice
 SUBDIVISION: /
 COUNTY: Los Angeles
 SS+: No
 GROSS EQUITY:
 PRESENT LOANS \$:
 HAVE:

LIST \$ ORIG: \$14,950,000
 SUB TYPE:
 CMN WALLS:
 PARKING: None
 # OF BUILDINGS TOTAL: 1
 RENT CONTROL?:
 PROPERTY ATTACHED?:

ROOM TYPE:
 UTILITIES:
 ELECTRIC:
 WATER:

COOLING: None
 HEATING: See Remarks
 VIEW:
 WATERFRONT:
 LAUNDRY:
 PROBATE AUTHORITY:

ANALYSIS

GROSS SCHEDULE INCOME:
 VACANCY ALLOWANCE \$/:%: /
 GROSS OPERATING INCOME:
\$1,100,000
 NET OPERATING INCOME:
\$641,000
 OPERATING EXPENSE \$/:%: /
 LAND DOLLAR VALUE \$/:%:
\$6,129,976/

GROSS SPENDABLE INCOME:
 LOAN PAYMENT(ANNUAL):
 GROSS MULTIPLIER: 13.63
 CAP RATE: 0
 IMPROVEMENTS TOTAL \$/:%:
\$1,535,333/
 PERSONAL PROPERTY \$/:%: /

INCOME

OF RENTED GARAGES:
 GARAGE RENTAL RATE:
 GARAGES RENTAL INCOME:
 LAUNDRY INCOME:
 LAUNDRY INC. OWN/LEASE?:

OTHER INCOME 1:
 OTHER INCOME 2:
 OTHER INC. DESCRIPTION:

ANNUAL EXPENSE

TOTAL OPERATING EXPENSE:
\$459,000
 ELECTRIC:
 GAS:
 LICENSES:
 NEW TAXES:

FURNITURE REPLACEMENT:
 TRASH:
 CABLE TV:
 GARDENER:
 INSURANCE:

MAINTENANCE:
 WORKMAN'S COMP:
 PROFESSIONAL MANAGEMENT:
 WATER/SEWER:

OTHER EXPENSE:
 OTHER EXPENSE DESCRIPTION:

TAX

TAX RATE:

TAX YEAR:

TAX ANNUAL AMT:

TAX AREA:

UNIT INFORMATION

	UNITS	BEDS	BATHS	GARAGE	FURNISHED?	ACTUAL RENT	TOTAL RENT	PRO FORMA	# OF UNITS WITH
1:	4	1	1		Furnished	\$0	\$0	\$4,300	
2:	27	0	1		Furnished	\$0	\$0	\$3,200	
3:		0	0		Partially	\$0			
4:		0	0		Partially	\$0			



Carl Lambert converted 5 Rent Stabilized apartment buildings in Venice with long-term tenants into de-facto hotels.



417 Ocean Front Walk- 32 unit RSO apartments



25 unit RSO apartments- Mr Lambert sold this building recently but operated previously as Venice Admiral Suites



52 Paloma- 8 units RSO apartment- Mr Lambert recently sold this building but operated previously Paloma Suites.



2 Breeze- 31 unit RSO apartments




Waldorf- 32 unit RSO apartments



lambertinc.com

ROBERT BROWNING



Robert Browning
Chief Financial Officer

✉ robert@Lambertinc.com
☎ 310.453.9656

LAMBERT INVESTMENTS, INC.
BRE: 00860625
2 BREEZE AVE., SUITE 101
VENICE, CA 90291
PHONE: (310) 453-9656
FAX: (310) 829-6288
info@Lambertinc.com

Robert has extensive experience in a wide range of leadership, management and advisory positions in the role of Chief Financial Officer for Lambert Investments. In his 10 years of service with Lambert Investments, Inc., Robert has provided leadership in development for the continuous evaluation of short and long term financial objectives.

- Certified Notary Public since 2005
- Increasing Revenue in Low Income Properties
- Tenant Management & Relations
- Low Vacancy Rate
- Effective in Problematic Tenant Evictions
- Employee Management
- Hotel Management

Robert is also responsible for planning, implementing, managing and controlling all financial related activities of 5 extended stay properties on the famous Venice Beach Boardwalk. He also is responsible for the overall management of 202 family dwelling units in the Venice Beach and Santa Monica area.

On June 17th, 2016, City Attorney Mike Feuer filed BC 624350 against Mr. Lambert for his property at 417 Ocean Front Walk. The Complaint for Injunctive and Equitable Relief and Civil Penalties for: (1) Los Angeles Municipal Code Section 11.00; (2) Public Nuisance in Violation of Civil Code section 3479 et sec.; (3) Unfair Competition Law (Business and Professions Code Section 17200 et seq.) and (4) False Advertising Practices (Business and Professions Code Section 17500 et seq.). That case is on appeal, B300960.

Mr. Feuer filed BC 624350 as The People of California vs Venice Suites, LLC but did not cite violation of the state Mello Act. The conversion of this RSO property to a hotel is a clear violation of the Mello act. State law supersedes L.A.M.C. and zoning, and the City is responsible for local enforcement of the Mello Act.

For all of the reasons stated above, including years of DCP and HCID's non-compliance with the Mello Act (and Housing Element by incorporation), Settlement Agreement, and their own IAP in the coastal zone, and in light of the burgeoning housing crisis and unhoused crisis, the City must use a strict interpretation of the Mello Act (and the Housing Element) in drafting an

equitable permanent Mello Ordinance to protect diversity of housing and housing access, especially existing housing for low and moderate income housing, in the coastal zone. This requires a prohibition on conversion to mixed-use.

California Code, Civil Code - CIV § 13:

WORDS AND PHRASES, HOW CONSTRUED. Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or definition.

In Venice Town Council, the Court affirmed the plain meaning interpretation of 10.7, that “the *conversion or demolition* of any **residential structure** for purposes of a *nonresidential use which* is not “coastal dependent”, ***shall not be authorized*** unless the local government has first determined that a *residential use is no longer feasible* in that location.” The Court found that the **conversion** of existing 100% residential properties to mixed-use **is impermissible without a finding** that continued residential use at the location is infeasible. Additionally, the Mello Act states that the proximity of other residential properties will create a presumption that a continued residential use is feasible.

This is especially important in Venice and San Pedro where some of the last coastal communities of color live in coastal areas with any economic diversity in coastal housing opportunities. Venice is the 1st intentional Black coastal community on the entire West Coast of the United States. And tragically, Venice is the only remaining original Black coastal enclave on the entire West Coast of the United States.

The City must implement a permanent Mello Ordinance that supports equitable access to housing and when unavoidable, replacement affordable housing, in the coastal zone. No exceptions. No mixed use.

Please consider this in your review of the draft Mello Ordinance on May 13, 2021.

Appreciatively,

Margaret Molloy

December 30, 2020, Department of City Planning numbers for the development of rental housing units in Westside areas of Los Angeles from 2010 to the present.

From: Christine Saponara <christine.saponara@lacity.org>

Subject: Re: Mello

Date: December 30, 2020 at 11:17:14 AM PST

To: margaret molloy <mmmolloy@earthlink.net>

Hi there...the data that you requested is below:

Citywide		2010- Present	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
	Completed	709	62	101	112	91	78	42	47	73	44	30	29
	Approved	644	61	92	101	76	68	37	43	71	42	28	25
		2015- Present	2020	2019	2018	2017	2016	2015					
	Units Approved	970	147	326	188	123	130	56					
	Market Rate	855	103	267	180	123	126	56					
	Moderate	5	0	5	0	0	0	0					
	Low	1	1	0	0	0	0	0					
	Very Low	109	43	54	8	0	4	0					
	Extremely Low	0	0	0	0	0	0	0					
	Uncategorized Affordable	0	0	0	0	0	0	0					
Brentwood - Pacific Palisades		2010- Present	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
	Completed	210	20	40	34	32	34	9	5	8	15	7	6
	Approved	198	19	38	31	29	32	8	5	8	15	7	6
		2015- Present	2020	2019	2018	2017	2016	2015					
	Units Approved	214	53	28	34	48	38	13					
	Market Rate	210	49	28	34	48	38	13					
	Moderate	0	0	0	0	0	0	0					
	Low	0	0	0	0	0	0	0					
	Very Low	4	4	0	0	0	0	0					

	Extremely Low	0	0	0	0	0	0	0					
	Uncategorized Affordable	0	0	0	0	0	0	0					
Venice		2010-Present	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
	Completed	454	36	55	69	55	37	30	38	63	27	21	23
	Approved	406	36	48	61	44	30	27	35	62	25	19	19
		2015-Present	2020	2019	2018	2017	2016	2015					
	Units Approved	510	91	193	74	70	41	41					
	Market Rate	422	51	145	74	70	41	41					
	Moderate	4	0	4	0	0	0	0					
	Low	1	1	0	0	0	0	0					
	Very Low	83	39	44	0	0	0	0					
	Extremely Low	0	0	0	0	0	0	0					
	Uncategorized Affordable	0	0	0	0	0	0	0					
Westchester - Playa Del Rey		2010-Present	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
	Completed	20	2	1	3	4	3	3	2	1	1	0	0
	Approved	16	2	1	3	3	2	2	2	0	1	0	0
		2015-Present	2020	2019	2018	2017	2016	2015					
	Units Approved	87	1	1	75	5	3	2					
	Market Rate	79	1	1	67	5	3	2					
	Moderate	0	0	0	0	0	0	0					
	Low	0	0	0	0	0	0	0					
	Very Low	8	0	0	8	0	0	0					
	Extremely Low	0	0	0	0	0	0	0					
	Uncategorized Affordable	0	0	0	0	0	0	0					

Palms - Mar Vista - Del Rey		2010- Present	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
	Completed	0	0	0	0	0	0	0	0	0	0	0	0
	Approved	0	0	0	0	0	0	0	0	0	0	0	0
		2015- Present	2020	2019	2018	2017	2016	2015					
	Units Approved	0	0	0	0	0	0	0					
	Market Rate	0	0	0	0	0	0	0					
	Moderate	0	0	0	0	0	0	0					
	Low	0	0	0	0	0	0	0					
	Very Low	0	0	0	0	0	0	0					
	Extremely Low	0	0	0	0	0	0	0					
	Uncategorized Affordable	0	0	0	0	0	0	0					
San Pedro		2010- Present	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
	Completed	25	4	5	6	0	4	0	2	1	1	2	0
	Approved	24	4	5	6	0	4	0	1	1	1	2	0
		2015- Present	2020	2019	2018	2017	2016	2015					
	Units Approved	159	2	104	5	0	48	0					
	Market Rate	144	2	93	5	0	44	0					
	Moderate	1	0	1	0	0	0	0					
	Low	0	0	0	0	0	0	0					
	Very Low	14	0	10	0	0	4	0					
	Extremely Low	0	0	0	0	0	0	0					
	Uncategorized Affordable	0	0	0	0	0	0	0					

Wilmington - Harbor City		2010- Present	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
	Completed	0	0	0	0	0	0	0	0	0	0	0	0
	Approved	0	0	0	0	0	0	0	0	0	0	0	0
		2015- Present	2020	2019	2018	2017	2016	2015					
	Units Approved	0	0	0	0	0	0	0					
	Market Rate	0	0	0	0	0	0	0					
	Moderate	0	0	0	0	0	0	0					
	Low	0	0	0	0	0	0	0					
	Very Low	0	0	0	0	0	0	0					
	Extremely Low	0	0	0	0	0	0	0					
	Uncategorized Affordable	0	0	0	0	0	0	0					